IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.24686 of 2004

Between:

Gorige Mala Kondaiah, S/o. Musalaiah,
Palluruvari Pally Village, H/o. Thalluru Kanigiri Mandal,
Prakasham District.

..... PETITIONER

AND

1 Joint Collector, Prakasham District (Civil Supplies),. Ongole.
2 Revenue Divisional Officer, kandukur, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order more particularly one in the nature of writ of mandamus or an appropriate writ or order declaring the action of the respondent No.1 in dismissing the stay petition vide proceeding Rc.CS2/5035/2004, dt. 05.12.2004 filed against the proceedings RCF No.1972/2004, dt. 07.10.2004 passed by the 2nd respondent as illegal, arbitrary and unconstitutional.

Counsel for the Petitioner: MR.I.KOTI REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following:

ORDER:

The petitioner is a Fair Price Shop Dealer. His authorization was suspended by the 2nd respondent through order, dated 07.10.2004, on certain allegations. He preferred an appeal before the 1st respondent together with an application for stay. The 1st respondent dismissed the stay application through order, dated 05.12.2004. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The 2nd respondent issued a show cause notice to the petitioner on 19.08.2004, directing him to explain as to why his authorization shall not be cancelled, on the ground that he is not residing in Pallurivari Palli Village and that he had violated the conditions of authorization, in the matter of distribution of essential commodities. The petitioner submitted his explanation on 07.09.2004. On a consideration of the same, the 2nd respondent suspended the authorization of the petitioner through order, dated 07.10.2004. Aggrieved thereby, the petitioner filed an appeal as well as an application for stay before the 1st respondent. The application for stay was dismissed without stating any reasons. A perusal of the order, dated 07.10.2004, discloses that the petitioner is not accused of misrepresenting any facts at the time of his appointment. It is not alleged that on account of his being native of another village, the Fair Price Shop is not being run properly. The petitioner categorically stated that he is residing in Pullurivari Palli Village. Except making a general allegation, no specific instance was pointed out as to violation of any conditions. On these two charges, the conclusions arrived at by the 2nd respondent read as under:

> "i) The allegation was proved since the dealer was admitted that he was the native of the Thalluru Village.
>
> ii) The explanation was not believable."

A reading of the same discloses that the entire process of issuance of show cause notice and submission of explanation was reduced to an empty formality. There are no allegations against the petitioner that he has diverted the essential commodities to black-market or indulged in any unlawful activities.

For the foregoing reasons, the writ petition is disposed of, directing that the order, dated 07.10.2004, passed by the 2nd respondent shall remain stayed, till the disposal of the appeal by the 1st respondent. There shall be no order as to costs.

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29.12.2004

Jsu

To

1 The Joint Collector, Prakasam District (Civil Supplies), Ongole.
2 The Revenue Divisional Officer, kandukur, Prakasam District.

3 2 CCs to the G.P. for Civil Supplies, High Court Buildings,

Hyderabad (OUT).

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